

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA  
ex rel

SAMUEL MARC  
Full name & prison number  
(if any) of Petitioner

Immigration and Naturalization  
Services  
Name of Respondent

1 : CV 00-1828  
NO.

FILED  
SCRANTON

OCT 16 2000

(PERSONS IN FEDERAL CUSTODY)

PER LMF  
DEPUTY CLERK

PETITION FOR WRIT OF HABEAS CORPUS

Instructions - READ CAREFULLY

1. In order for this petition to receive consideration by the District Court, it shall be in writing (legibly handwritten or typewritten), and the unsworn declaration signed by the petitioner. It shall set forth in concise form the answers to each applicable question. If necessary, petitioner may finish his answer to a particular question on the reverse side of the page or on an additional blank page. Petitioner shall make it clear to which question any such continued answer refers.

2. Any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Petitioners should therefore exercise care to assure that all answers are true and correct.

3. When the petition is completed, the original and three copies shall be mailed to the Clerk, United States District Court, Middle District of Pennsylvania, P.O. Box 1148, Scranton, Pa. 18501.

If you are unable to pay the \$5.00 filing fee for this action, you may petition the court to proceed in forma pauperis. Two blank petitions for this purpose are included in this packet. One copy should be filed with your complaint; the other copy is for your records.

1 : CV00-1828

1. Place of detention York County Prison (YCP)
2. Name and location of court which imposed sentence Immigration and Naturalization Services, York County, PA.
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
  - (a) A 23-610-770 ;
  - (b) INA § 237 (a) (2) (i) ;
  - (c) INA § 237 (a) (2) (iii)
4. The date upon which sentence was imposed and the terms of the sentence:
  - (a) December 9, 1999
  - (b) Ordered deported/Remove to Haiti
  - (c) \_\_\_\_\_
5. Check whether a finding of guilty was made
  - (a) after a plea of guilty \_\_\_\_\_
  - (b) After a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_
6. If you were found guilty after a plea of not guilty, check whether that finding was made by
  - (a) a jury \_\_\_\_\_
  - (b) a judge without a jury \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
yes !

8. If you answered "yes" to (7), list

(a) the name of each court to which you appealed:

1. Board of Immigration Appeals (BIA)

11. \_\_\_\_\_

111. \_\_\_\_\_

(b) the result in each such court to which appealed:

1. Withdrawn appeal, due to long

11. delay awaiting BIA's decision.

111. \_\_\_\_\_

(c) the date of each such result:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(d) if known, citations of any written opinions or orders entered pursuant to such results:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Unlawful delay of deportation

(b) Illegal detention

(c) *Deprivation of life And Liberty*

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a)

*See Facts* →

(b)

(c)

----- F A C T S -----

GROUND:

- A) The Immigration and Naturalization Services brought charges against the petitioner on about September 29, 1999, and by December 9, 1999 petitioner was ordered deported back to his homeland Haiti. Petitioner appealed to the BIA. He then withdrew his appeal, and on May 31, 2000 an administrative final order was entered in petitioners case; Unfortunately, until this day the INS has not yet made any effort to remove him; Thus result to the unlawful delay of petitioner's departure.
- B) Petitioner is being illegally detained in INS custody because he is being held without bond, nor any other immediate relief that favors petitioner to possible release, although the 90 days statutory period required by law for the service to remove petitioner has already expired; In that, this court should grant petitioner immediate release with no further proceeding.
- C) Petitioner's life and liberty has been cruelly and unusually deprived as INS knowingly, intentionally, and unlawfully continue to detain him without any due process right which is guaranteed to him accordingly. Petitioner prays that his writ of habeas corpus be granted and order the petitioner released immediately and or deport him forthwith.

11. Have you filed previous petitions for habeas corpus motions under Section 2255 of Title 28, United States Code, or any other applications, petitions or motions with respect to this conviction:

12. If you answered "yes" to (11), list with respect to each petition, motion or application

(a) the specific nature thereof:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(b) the name and location of the court in which each was filed.

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(c) the disposition thereof.

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(d) the date of each such disposition:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

(e) If known, citations of any written opinions or orders entered pursuant to each such disposition:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

13. If you did not file a motion under Section 2255 of Title 28 United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

(a)

(b)

(c)

14. Has any ground set forth in (9) been previously presented to this or any other federal court by way of petition for habeas corpus, motion under Section 2255 of Title 28, United States Code, or any other petition, motion or application:

*None of the above grounds have been previously brought before any Courts.*

11. \_\_\_\_\_

111. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

1. \_\_\_\_\_

11. \_\_\_\_\_

111. \_\_\_\_\_

18. If you are seeking leave to proceed in forma pauperis, have you completed the unsworn declaration setting forth the required information (see instructions, page 1 of this form).

Executed at

YCP, York, PA.  
Name of institution, city, state

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

10/6/2000  
Date

Samuel Meier  
Signature of Petitioner